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utah
wilderness
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DIV. OF OIL, GAS & MINING

May 26, 2004

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Utah Division of Oil, Gas and Mining
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Incoming
C/007/0013

RE: Comments, Objections and Request for Informal Conference Pertaining to the Determination of Administrative Completeness for the Lila Canyon Extension, UtahAmerican Energy, Inc., Horse Canyon Mine, C/007/0013, Task ID #1859

Dear Ms. Wright,

Pursuant to Rules 645-300-122.200 and 645-300-123, the Southern Utah Wilderness Alliance ("SUWA") timely comments and requests that the Division of Oil, Gas and Mining ("Division") hold an informal conference on the UtahAmerican Energy Inc. ("UEI") permit application package ("PAP") for the Lila Canyon Mine that the Division determined to be "administratively complete" on March 26, 2004 ("Determination"). SUWA requests that such conference be held at the Division offices located in Salt Lake City. See R645-300-123.120.

According to the rules, in order to be considered administratively complete, a PAP must contain information addressing each application requirement of the State Program and all information necessary to initiate processing and public review. See R645-100-200. SUWA contends that the PAP cannot be deemed administratively complete since it fails to contain all the information required under the rules, as set forth below. Indeed, the Division itself has recognized that the PAP failed to include required information in certain categories, while in other categories it makes no comment on the adequacy of the information. See Administrative Completeness Worksheet, dated March 26, 2004.

File in:
C/0070013, 2004, *Incoming*
Refer to:
☐ Confidential
☐ Shelf
☒ Expandable
Date: 052604 for additional information

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Regardless, the Division is clear that the PAP is not technically adequate at this time, and that its Determination does not mean that the Division has found that all data required by law has been submitted. As stated in the Determination, a technical review has merely been "initiated," "issues raised will need to be resolved prior to permit issuance," and the Division anticipates "that additional information may be necessary to make [UEI's] application technically complete . . ." See Determination. Thus, the Division contemplates requesting and receiving additional information during its review for technical completeness and correctness, and the Division's administrative completeness Determination has only "initiated" the technical review process on the most recent PAP. However, because the Division has already completed two technical reviews of previous PAP submittals, SUWA's comments incorporate those reviews and we may discuss issues addressed in those reviews during the informal conference. See TAs dated July 19, 2002 and April 8, 2003.

In addition to the Division's TAs, the comments below briefly summarize the issues SUWA intends to raise at the informal conference. R645-300-123.110. As allowed under the rules, our comments summarize the issues; they are not exhaustive for any particular issue, as SUWA understands that the conference will provide an opportunity to address each issue in greater detail. We may supply the Division with exhibits during the informal conference that help explain or support our concerns. Further, as we discussed, the process of the informal conference alone may disclose other concerns, which can be addressed at that time or through additional comments submitted by SUWA during the Division's technical review process. It should be noted that the citations below are for reference, and do not represent an exhaustive list of the rules, regulations, or laws applicable to SUWA's concerns.

1. **Acid- or toxic-forming materials.** The PAP does not contain an analysis of acid- or toxic-forming material from the strata immediately above and below the coal seam to be mined. There are no data or analysis of material collected from the permit area. R645-301-624.300.
2. **Subsurface water resource maps.** The PAP does not contain maps and cross-sections showing the areal and vertical distribution of aquifers, and portrayal of seasonal differences of head in different aquifers within the permit area. R645-301-722.100.
3. **Surface water resources.** The PAP does not contain baseline information on seasonal flow

rates for Lila Canyon, Little Park Wash, or Stinky Spring Wash, three intermittent streams within the permit area. *R645-301-724.200.*


4. **Ground water quantity.** The PAP does not contain information on the location, seasonal quantity, or approximate rates of discharge for each water-bearing stratum above and potentially impacted stratum below the coal seam for the permit and adjacent areas. *R645-301-724.100.*
5. **Ground water quality.** The PAP does not contain descriptions of water quality for all ground-water resources within the permit and adjacent areas. *R645-301-724.100.*
6. **Coal mine waste.** The PAP is not clear on where underground development waste will be placed and how much coal processing waste will be placed in the refuse pile.
7. **Inadequate ground water monitoring.** The PAP indicates that there is only one proposed monitoring site (L-7-G / Cottonwood Spring) in the permit area for which baseline data exists. *R645-301-731.211.*
8. **No baseline data for surface water monitoring plan.** There is no baseline data for surface flows in Lila Canyon, Little Park Wash, or Stinky Spring Wash; thus, there will be no basis for comparison during monitoring. *R645-301-731.221.*
9. **The PHC is flawed.** The PHC determination and findings presented in the PAP are not based on baseline hydrologic, geologic and other information collected for the permit application. *R645-301-728.200; -728.300.*
10. **Water consumption.** The PAP does not contain a comprehensive description of the quantities of water that will be consumed by the proposed mining operation, the source of the water, and the impacts associated with this water loss.
11. **Cumulative Impact Area.** The information provided by UEI is not sufficient to allow the Division to establish a hydrologically reasonable CIA boundary.
12. **Operation Plan.** The plan presented in the PAP is not specific to the local hydrologic conditions and does not describe steps that will be taken to minimize disturbance to the hydrologic balance within the permit and adjacent areas or to prevent material damage outside the permit area. *R645-301-731.*
13. **Survey Data.** The PAP fails to contain certain survey data required under the rules. *R645-301-131.*
14. **Vegetation Survey.** The PAP fails to include an adequate description of the vegetative

communities and productivity throughout the affected area. *R645-301-321; -323.*

- 15. Site-Specific Resource Information.** The PAP does not contain the site-specific resource information required by the rules, and the information presented in the PAP is not sufficient to design a protection and enhancement plan. *R645-301-322.*
- 16. Subsidence Impacts to Plants and Animals.** The PAP fails to include information on subsidence adequate to assess impacts to plant and wildlife species. *R645-301-332; -358.*
- 17. Impacts to Fish and Wildlife.** The PAP fails to include information necessary to adequately assess impacts to fish and wildlife and related environmental values, including the sensitive fish species identified by the U.S. Fish and Wildlife Service. *R645-301-333; -358.*
- 18. Disturbance, Monitoring, and Protection of Habitat.** The PAP fails to comply with the rules requiring the operator to avoid disturbance of wildlife habitats, and fails to describe how wildlife will be monitored and protected from hazardous materials. *R645-301-358.400; -358.530; -526.222.*
- 19. Land Use/ Unsuitable for Mining.** The PAP fails to include information that accurately describes the capability of the land affected by the coal mining and reclamation operations, and fails to demonstrate that the land will be returned to its premining land-use capability. Mining in the proposed permit area may, at a minimum, affect productivity of water supply, scientific and aesthetic values, and natural systems. *R645-301-411.100, -411.120; -412; -414; and R645-301-115.*
- 20. Cultural.** The PAP fails to include information from a complete cultural resource survey, coordination with the State Historic Preservation Officer, and a plan that describes measures to prevent adverse impacts to such resources. *R645-301-411.140--144.*
- 21. Subsidence Control.** The PAP fails to include information necessary to adequately assess the quantity and quality of all State-appropriated water supplies that could be impacted by subsidence, and fails to include an adequate plan for repair, replacement, or restoration of such supplies or surface lands. *R645-301-525.130; -525.400; 525.480; -525.510; -731.530.*
- 22. Coal Haul Road.** The PAP must include the coal haul road within the "affected area" and include all information necessary for the permitting process. *R645-100-200.*
- 23. New Permit.** The proposed mine must be processed and approved through application of a new permit. *R645-303-222.*

SUWA appreciates your time in considering these comments and looks forward to working with the Division at the informal conference and during the technical review process. Please contact me if you have any questions.

Sincerely,


W. Herbert McHarg
Southern Utah Wilderness Alliance

CERTIFICATE OF MAILING

I hereby certify that on May 26, 2004, I caused a true and correct copy of the foregoing Comments and Request for Informal Conference, to be sent by facsimile and certified mail return receipt to the following:

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